IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 70567-M of 2006

DATE OF DECISION : 13.11.2006

Vijay alias Koki

.... PETITIONER

Versus

State of Haryana

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. R.S. Cheema, Senior Advocate, with
Mr. R.K. Trikha, Advocate,
for the petitioner.

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Petitioner Vijay alias Koki, apprehending his arrest in pursuance of his summoning under Section 319 Cr.P.C. by the trial court in case FIR No. 39 dated 13.3.2004 under Sections 302, 201, 34 IPC, registered at Police Station City Bahadurgarh, District Jhajjar, has filed this petition under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail.

2. In this case, the aforesaid FIR was registered on 13.3.2004 on the basis of statement made by Devinder Gupta alias Viky son of the deceased alleging therein that his uncle Subhash was stabbed by elder brother of the petitioner and in that regard, a case was registered against him. Due to that grudge, the petitioner along with Dinesh alias Datuva and Chikna alias Raju had called his father from the tent house, shot him dead and threw his dead body at Patel Nagar. During the investigation, one Kuldip Singh alias Monu was arrested in this case and he made a disclosure statement to the effect that he along with one Dharmender alias Dhanna, Rajesh alias Mogli, Tony Sardar had committed the murder of Rakesh Gupta. According to him, Dharmender had caused three gun shot injuries to the deceased and Tony Sardar through a lady namely Neetu had called the

deceased at the spot. During further investigation, Dharmender was arrested and he also suffered a disclosure statement, in which it was stated that he along with Kuldip alias Monu, Rajesh alias Mogli and Tony Sardar had committed the murder of Rakesh Gupta. He further stated that the pistol, which was used in the murder of Rakesh Gupta was handed over to Kuldip alias Monu after commission of the crime. Subsequently, Kuldip alias Monu was also arrested and he suffered a disclosure statement, in which he stated that he along with Dinesh alias Datuva, Dharmender alias Dhanna, Rajesh alias Mogi, Vijay alias Koki, Rajesh alias Raju alias Chikna, Neetu Rehal and Tony Sardar were involved in the murder of Rakesh Gupta. After completion of investigation, the police submitted challan against Kuldip alias Monu, Dharmender alias Dhanna and Neetu Rehal, whereas Rajesh alias Mogli, Vijay alias Koki (present petitioner), Rajesh alias Raju alias Chikna and Dinesh alias Datuva were kept in column No.2, being innocent.

3. After filing of the challan, complainant Devinder Gupta, being dis-satisfied with the investigation done by the local police, filed Crl. Misc. No. 41239-M of 2004 for transfer of the investigation of the case to the CBI or some independent agency. Thereupon, this court vide order dated 6.10.2004 directed that investigation of the case be conducted by C.B. C.I.D., Haryana. Thereupon, the investigation was handed over to DSP, C.B. C.I.D., Haryana, Madhuban. During the said enquiry, the disclosure statement of accused Rajesh alias Mogli, who was arrested by Delhi Police in a different case, was recorded, in which he named the petitioner as one of the accused, who conspired for the murder of Rakesh Gupta. It is alleged that the petitioner gave .38 bore pistol to him, which he had given to accused Dharmender alias Dhanna, who fired three shots upon Rakesh Gupta. It is further stated by Rajesh that after the occurrence, Dharmender had returned the pistol to him, which he again handed over to the petitioner. Subsequently, disclosure statement of Dinesh alias Datuva was recorded, in which he did not name the petitioner as one of the accused. During investigation, the petitioner was found innocent and after further investigation, challan was also filed against Dinesh alias Datuva, Rajesh

alias Raju alias Chikna, Swaran Singh alias Tony Sardar and Kamal Mehta, whereas the petitioner was kept in column No.2.

4. Subsequently, after examination of PW.11 Devinder Gupta (complainant) and PW.12 Mohan Lal, who specifically named the petitioner as conspirator to commit the offence, the petitioner was summoned to face trial under Section 319 Cr.P.C. along with the other accused in the case.

5. After hearing counsel for the petitioner and going through the contents of the petition as well as the documents annexed with it, I do not find any ground to grant the discretionary relief of anticipatory bail to the petitioner in this case. The petitioner has been specifically named in the FIR by son of the deceased. In the disclosure statement of accused Rajesh alias Mogli, recorded during investigation of the case, it has been alleged that the petitioner gave .38 bore pistol to him, which he had given to accused Dharmender alias Dhanna, who fired three shots upon Rakesh Gupta. It is further stated by Rajesh that after the occurrence, Dharmender had returned the pistol to him, which he again handed over to the petitioner. During trial, PW12 Mohan Lal has stated that he overheard the conversation of Dinesh, Raju and the present petitioner that they had handed over Rakesh to accused Nitu Nihar, Kuldip, Dharmender and Mogli for finishing him, because he was their enemy. Keeping in view these specific allegations against the petitioner and the nature of offence, I am not inclined to grant the anticipatory bail to the petitioner.

Dismissed.

November 13, 2006 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**